



RECEIVED  
OCT 17 2003  
TC 1700

1745

#222  
11.5.3

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of : Confirmation No. 9619  
Seiji NONAKA et al. : Docket No. 2000-1402  
Serial No. 09/679,308 : Group Art Unit 1745  
Filed October 6, 2000 : Examiner J. Mercado

ELECTRODE METAL MATERIAL,  
CAPACITOR AND BATTERY FORMED OF  
THE MATERIAL AND METHOD OF  
PRODUCING THE MATERIAL  
AND THE CAPACITOR AND BATTERY

THE COMMISSIONER IS AUTHORIZED  
TO CHARGE ANY DEFICIENCY IN THE  
FEE OF THIS PAPER TO DEPOSIT  
NO. 23-0975

RESPONSE

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Responsive to the Office Action of July 11, 2003, Applicants submit the following remarks in support of the allowance of the present application. Further and favorable reconsideration is respectfully requested in view of these remarks.

Thus, the rejection of claims 1, 3-10 and 121 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 2 and 5-11 of Nonaka et al., as well as the rejection of claims 122 and 123 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 2 and 5-11 of Nonaka et al. in view of Phillips, are respectfully traversed.

The Nonaka et al. reference (USP 6,493,210) is the patent which issued from the divisional application of the present application. During prosecution of the present application, the Examiner required restriction among (I) claims 1-10 and 21-34 drawn to an electrode and a capacitor, (II) claims 11-23, 35-53 and 80-120 drawn to a method of forming an electrode and a

11/06/2003 PFENNER 09679308 230975  
01 FC:1251

method of forming a capacitor, and (III) claims 1-10, 11-23 and 54-79 drawn to an electrode, a method of forming an electrode, a battery, and a method of forming a battery. This restriction requirement is set forth in the Office Action of December 4, 2001 in the present application. In response to this restriction requirement, Applicants elected Group III. A divisional application was filed for the subject matter of Groups I and II. Claims 1-11 of the Nonaka et al. reference (US '210) correspond to claims 24-28 and 30-34 which are part of the Group I subject matter. Considering the language of 35 U.S.C. §121, it is apparent that both of the double patenting rejections set forth by the Examiner are improper.


For these reasons, Applicants take the position that the rejections set forth by the Examiner should be withdrawn, and that the application is in condition for allowance. Such allowance is solicited.

#### **REMINDER**

The Examiner is kindly reminded that on July 22, 2003 (after issuance of the Office Action), Applicants filed (1) a Request for PTO-1449 form, and (2) a Second Supplemental Information Disclosure Statement. The Examiner is respectfully requested to initial the references on both of the PTO-1449 forms submitted with papers (1) and (2) after considering the references cited therein, and then return copies of the initialed forms to Applicants' attorney.

Respectfully submitted,

Seiji NONAKA et al.

By:   
Michael R. Davis  
Registration No. 25,134  
Attorney for Applicants

MRD/nk  
Washington, D.C. 20006-1021  
Telephone (202) 721-8200  
Facsimile (202) 721-8250  
October 10, 2003